

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
BARRY L. TULKKI, M.D.,	:	LS0712125MED
	:	
RESPONDENT.	:	

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Division of Enforcement Case #06 MED 240

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Barry L. Tulkki, M.D.  
225 Scholl Court  
Amery, WI 54001

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Medical Examining Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the Final Decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

## FINDINGS OF FACT

1. Barry L. Tulkki, M.D. (DOB 10/11/1953) is duly licensed as a physician in the State of Wisconsin (license #20-23277). This license was first granted on July 11, 1980.

2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 225 Scholl Court, Amery, WI 54001.

3. Respondent is a family practice physician who in the past practiced obstetrics and gynecology for some of his female patients. Respondent states that he has not practiced obstetrics and gynecology for at least eighteen (18) months before the date of this Order.

4. Respondent managed the prenatal care, labor and delivery for Patient J.O.'s three children. The first child weighed 9 pounds 12 ounces at birth and was born via cesarean section. The second child weighed 10 pounds 3 ounces and was born vaginally. During this delivery process shoulder dystocia was encountered and the medical record indicates the child had mild brachial plexus problems. The medical records indicate that at two weeks of age this infant's brachial plexus problem "is almost resolved... She raises the arm, flexes and extends it well. She has a good grasp...." \*\*\* This patient regained full use of her arm and hand.

5. Patient J.O.'s third child weighed 11 pounds 6 ounces and was born vaginally. \*\*\* During the delivery process shoulder dystocia problems were encountered and the child sustained a severe brachial plexus injury. He will never have full range of motion or normal strength in his arm and hand, or normal dexterity of his fingers.

6. \*\*\* Respondent states that he informed patient J.O. after the birth of her second child that brachial plexus injuries can sometimes result in permanent injury. Patient J.O. denies that Respondent made such statements to her. Respondent states that during J.O.'s second and third pregnancies he discussed with J.O. the option of a vaginal delivery versus a Cesarean section and told J.O. he believed it would be reasonable to attempt a vaginal delivery. J.O. denies that she was told the risks of a vaginal delivery and denies she was offered the option of a Cesarean section. Respondent states he used fundal height measurements to estimate fetal size. Respondent obtained one ultrasound during the pregnancy at about 14 weeks gestation.

7. Patient J.O. alleges that during the delivery, Respondent directed staff to apply inappropriate downward pressure on J.O.'s uterus and he pulled on the baby's head. \*\*\* Respondent denies these allegations and states that when shoulder dystocia was encountered during the delivery of J.O.'s third child he attempted various maneuvers to deliver the child vaginally, including axial traction and the McRobert's maneuver. By using a corkscrew maneuver he was able to deliver the child. He states that during the McRobert's maneuver he instructed staff to apply suprapubic pressure on the uterus.

## CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.02, and is authorized to enter into the attached Stipulation and order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct alleged by patient J.O. and described in paragraphs 4-7 above constitutes negligence and a violation of Wisconsin Administrative Code § Med 10.02(2)(h), and subjects Respondent to discipline pursuant to Wis. Stat. § 448.02

### ORDER

Based on the alleged facts and the stipulated agreement of Respondent, IT IS ORDERED:

1. The license of Barry L. Tulkki, M.D., to practice medicine in the State of Wisconsin is LIMITED as follows:

(a) Respondent shall not practice obstetrics.

(b) If Respondent desires to practice obstetrics at any time in the future he must first petition the Board and provide proof of completion of 24 hours of continuing education in prenatal care, 10 hours of continuing education in ultrasound assessment of fetal size, potential anomalies and position, and 24 hours of continuing education in high risk obstetrics.

(1) Each course attended in satisfaction of this Order must be approved by the Medical Examining Board or its designee. Respondent will be responsible for locating courses satisfactory to the Medical Examining Board and for obtaining the required approval of the courses from the Medical Examining Board or its designee.

(2) Respondent will, within 60 days of completion of this educational requirement, file an affidavit with the Medical Examining Board stating under oath that he has attended in its entirety each of the courses approved for satisfaction of this requirement, along with supporting documentation of attendance from the sponsoring organizations. This affidavit and the supporting documentation of attendance will be filed with:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

All certifications, affidavits or other documents required to be filed with the Medical Examining Board will be deemed filed upon receipt by the Department Monitor.

(3) Respondent will be responsible for paying the full cost of attendance at these courses.

(4) Respondent will not apply any of the continuing education credits earned in satisfaction of this Order toward satisfaction of his Wis. Stat. § 448.13 biennial training requirements.

(c) Upon proof of successful completion of the above ordered continuing education, Respondent may practice obstetrics only under the direction of an obstetrician to be approved in advance by the Board.

(d) After a minimum of two years of supervised obstetrics practice, Respondent may petition the board to amend the limitation. Any such petitions must be accompanied by a written report of Respondent's practice by the supervising obstetrician. The Board may require a personal appearance by the Respondent to answer any questions it sees fit regarding the nature of his practice and his ability to safely practice obstetrics. The Board may lift the limitation

or may modify the limitation in any manner it sees fit to protect the public.

2. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of One Thousand Dollars (\$1,000.00). Payment shall be made to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

3. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its direction may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to pay costs as ordered, the Respondent's license (#20-23277) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

4. This Order is effective on the date of its signing.

MEDICAL EXAMINING BOARD

By: Gene Musser MD  
A Member of the Board

12/12/07  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
BARRY L. TULKKI, M.D., :  
RESPONDENT. :

STIPULATION  
LS# \_\_\_\_\_

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Division of Enforcement Case #06 MED 240

Barry L. Tulkki, M.D. personally and by his attorney, David C. Hutchinson; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case #06 MED 240). Respondent consents to the resolution of this investigation by stipulation.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by the preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has obtained the advice of legal counsel prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Medical Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or this attorney, only for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation and for no other purposes. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Barry L. Tulkki, M.D. [changed case]  
Amery, WI 54001

Date 225 School Court

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David C. Hutchinson  
Geraghty, O'Loughlin & Kenney, P.A. [changed case]  
Ste. 1100 Alliance Bank Center  
55 East Fifth Street  
Saint Paul, MN 55101-1812

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Date

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Jeanette Lytle, Attorney  
Division of Enforcement  
Department Of Regulation And Licensing [changed case]  
P.O. Box 8935  
Madison, WI 53708-8935

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Date